

STATE OF VERMONT BOARD OF MEDICAL PRACTICE

In re: Pamela K. Gonzalez, M.D.

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Docket No. MPS 50-0305

STIPULATION AND CONSENT ORDER

NOW COME Pamela K. Gonzalez, M.D. (Respondent), and the State of Vermont, by and through Attorney General William H. Sorrell and undersigned Assistant Attorney General, James S. Arisman, and agree and stipulate as follows:

1. Pamela K. Gonzalez, M.D., Respondent, holds Vermont limited temporary license number 060-0002870, first issued on September 4, 2001. 26 V.S.A. § 1391(c).
2. Jurisdiction vests with the Vermont Board of Medical Practice (Board), pursuant to 26 V.S.A. §§ 1353, 1354, 1365(b), 1366, 1391 & 1398; 3 V.S.A. §§ 809 & 814(c).

I. Background.

3. The Vermont Board of Medical Practice on March 23, 2005 opened a complaint against Respondent Gonzalez, based on information from the New Hampshire Board of Medicine. See Exhibit 1, Consent Order, *In the Matter of Pamela Gonzalez, M.D.*, No. RT 1009, State of New Hampshire Board of Medicine.

4. On March 7, 2002, Respondent took a medical leave of absence from her residency at the Dartmouth Hitchcock Medical Center. She entered the New Hampshire Physician Health Program ("NHPHP") on October 21, 2002. Respondent returned to the practice of medicine on January 2, 2004.

5. Subsequent to her return to practice in 2004, the New Hampshire Board received information alleging that Respondent Gonzalez had violated the terms of her NHPHP recovery contract by consuming alcohol and by missing scheduled alcohol screenings.

A. Admissions.

6. By Consent Order with the New Hampshire Board, dated May 4, 2005, Respondent stipulated that she tested positive for use of alcohol in August 2004, failed to communicate via telephone regarding some required screening dates, and missed two alcohol screenings. She admitted that the State's evidence, if presented in a disciplinary hearing before the New Hampshire Board of Medicine, would prove that she had engaged in professional misconduct.

7. Respondent expressly admits and reiterates here that she engaged in the unprofessional conduct alleged by the New Hampshire Board of Medicine.

B. New Hampshire License Suspension.

8. Respondent agreed with the New Hampshire Board that her actions violated the terms of her NHPHP recovery contract and consented to suspension of her New Hampshire training license, pending further order of the New Hampshire Board. In this regard, the New Hampshire Board entered a finding that Respondent had violated RSA 329: 17, VI(d), based on her conduct. The New Hampshire statute in question, RSA 329: 17, VI(d), provides for disciplinary action based on "dishonest or unprofessional conduct" or negligence with regard to activities ancillary to the practice of medicine.

II. Basis for Action by State of Vermont.

9. The factual basis for the action taken by the New Hampshire Board constitutes grounds for which a licensee, such as Respondent Gonzalez, may be disciplined by the Vermont Board of Medical Practice. See, e.g., 26 V.S.A. §§ 1354(a)(5), (7), (20), (22), (27), (28); 1354(b)(2); and 1398. Therefore, Respondent agrees and admits here that she has engaged in unprofessional conduct for which she may be disciplined under Vermont law. Respondent acknowledges and agrees that the Vermont Board of Medical Practice possesses the authority to immediately suspend on an interim basis her limited temporary license, under 26 V.S.A. §§ 1365 and 1366, pending further proceedings before the Vermont Board. Thus, Respondent knowingly and voluntarily consents here to interim suspension of her Vermont limited temporary license and agrees that the prior action taken by the New Hampshire Board of Medicine provides a proper basis for reciprocal action by the Vermont Board of Medical Practice.

III. Agreement.

10. Respondent reiterates that she is voluntarily agreeing to this Stipulation and Consent Order. She acknowledges and agrees that she has had opportunity to seek advice of counsel in this matter. Respondent agrees and understands that by executing this document she is waiving such rights as she may possess, at this time, to be served with formal charges, to challenge the jurisdiction and continuing jurisdiction of the Board in this matter, and to contest at public hearing any allegations against her by the State of Vermont as to suspension of her Vermont limited temporary license. 3 V.S.A. §§ 809 & 814.

11. Although entering no further admission here and solely for purposes of cooperating with the Board of Medical Practice, Respondent agrees that the Board may enter as its findings and/or conclusions Paragraphs 3 through 9, above, and may enter an order suspending her Vermont limited temporary license on an interim basis, pending further proceedings or order of the Board.

A. General Provisions.

12. Respondent expressly agrees, pending further proceedings or order of the Board of Medical Practice to take the steps set forth below:

- (a) cooperate fully and in good faith with any and all further investigation of this matter by the Vermont Board of Medical Practice; if requested, Respondent expressly agrees that she shall voluntarily cooperate and participate in good faith in those evaluations, assessments, and collection/testing regimes that the Vermont Board may deem appropriate to its investigation and/or monitoring of Respondent's condition, compliance status, sobriety, and recovery;
Respondent shall bear any and all costs;
- (b) sign all such authorizations and/or waivers of confidentiality as may be presented to her by the Vermont Board as to her medical records, treatment records, test results, reports, written evaluations or assessments, compliance reports, or other information relevant to her recovery efforts, sobriety, and psychological and/or medical condition, without limitation;
- (c) cooperate fully and in good faith with the NHPHP or similar entity (such as the Vermont Practitioner Health Program); and cooperate fully, promptly, and in good faith with any and all reasonable recommendations, suggestions, and/or contract provisions that may result from her involvement in such program(s);
Respondent shall bear any and all costs; further, Respondent agrees and assures that she shall comply fully and in good faith with all terms and conditions of her consent agreement with the New Hampshire Board of Medicine; she agrees that non-compliance with such agreement may be deemed to be inconsistent with the terms, conditions, and purposes of this agreement with the Vermont Board;
- (d) authorize any and all such treatment/recovery programs and/or regulatory boards to report immediately to the Vermont Board of Medical Practice any apparent **noncompliance** on her part with subsection (c), above, or possible or apparent relapse;

- (e) authorize in writing the New Hampshire Board of Medicine to disclose to the Vermont Board of Medical Practice any and all information in its investigative file or otherwise in its possession, in whole or in part, including complaints, reports, transcriptions, legal agreements, and information and records as to Respondent's compliance with past and present licensing agreements and recovery and treatment efforts, and sobriety; Respondent agrees to sign such authorizations and/or waivers of confidentiality as may be presented to her in this regard;
- (f) authorize in writing the Vermont Board of Medical Practice to disclose to the New Hampshire Board of Medicine any and all information in its investigative file or otherwise in its possession, in whole or in part, including complaints, reports, transcriptions, legal agreements, and information and records as to Respondent's compliance with past and present licensing agreements and recovery and treatment efforts, and sobriety; Respondent agrees to sign such authorizations and/or waivers of confidentiality as may be presented to her in this regard;
- (g) cease and desist, effective immediately, and pursuant to this interim order of the Vermont Board, from any and all practice of medicine in the State of Vermont until further order of the Vermont Board;
- (h) promptly notify in writing the Vermont Board of her current address; site(s) of employment or practice; sobriety status; any relapses or "slips", complaints and/or open licensing investigations or disciplinary actions against her; arrests, convictions, and/or other involvements with law enforcement; Respondent acknowledges and agrees that she shall promptly inform the Vermont Board of any changes that may affect the accuracy or currency of any such information, as previously reported by her; and
- (i) adhere to all terms and conditions set forth in this agreement until relieved of such obligation by further order of the Vermont Board; in lieu of such further order, Respondent may demand filing of a specification of charges by the State and a prompt hearing on the merits of any allegations or charges presented against her by the State of Vermont.¹

1. Respondent may also file a motion, if warranted by the facts, seeking termination of the suspension of her license in the State of Vermont. The Vermont Board shall promptly consider and decide any such motion. In the interim, Respondent shall continue to desist from any and all practice of medicine in the State of Vermont until further written order or action by the Vermont Board. Respondent understands and agrees that the Vermont Board shall retain sole discretion to approve or deny any such motion following review and determination of the facts and circumstances. If such a motion is granted by the Board all other terms and conditions herein shall be retained and remain operative unless and until expressly set aside by the written order of the Vermont Board.

B. Abstinence and Recovery.

13. Respondent expressly agrees and assures the Vermont Board of Medical Practice that she shall abstain, completely and without exception, from consuming alcohol or ingesting any mind or mood altering substances, controlled substances, or prohibited substances, except as may be lawfully prescribed by her primary care physician or other licensed practitioner.

14. Respondent expressly agrees that the NHPHP program (or similar entity) and the Vermont Board of Medical Practice may share information and communicate freely and without limitation regarding her professional competence, sobriety, and care, treatment, and recovery.

15. Respondent agrees that she shall be responsible for promptly providing to the Board copies of all such treatment and aftercare recommendations, plans, or contracts directed to her by any practitioner or program. In this regard, she expressly warrants here that she shall promptly sign any and all consents and/or waivers of confidentiality as to her history, dependency, alcohol or substance use, diagnosis, condition, care, and treatment so as to permit full and complete disclosure to the Vermont Board for purpose of monitoring her recovery and of her ability to practice medicine safely, as well as her involvement and progress in treatment. Respondent shall bear all costs.

16. Applicant expressly agrees that the NHPHP program (or similar entity) may report immediately to the Vermont Board of Medical Practice any apparent noncompliance by her with regard to reasonable recommendations made to her by treating practitioners or as to her obligations to any treatment/recovery program. Respondent agrees that any such

treatment/recovery program may report to the Vermont Board any concerns it may have regarding her ability to practice medicine safely or as to her use or consumption of any prohibited substance.

C. Voluntary Cooperation.

17. If and when Respondent returns to practice at a later date, Respondent agrees that if circumstances are deemed to so warrant, upon any oral or written request by the Vermont Board, its staff, or agents, she shall voluntarily and immediately cease and desist from any practice of medicine in Vermont on a temporary basis, pending further proceedings before the Vermont Board. The Vermont Board shall disclose in writing the basis for its request that Respondent comply at the time such request is made. In turn, the parties agree that should Respondent so request, the Board shall promptly provide a hearing to determine whether an order of summary suspension shall be entered to protect patients and the public. The results of any such hearing shall prevail.

D. Evaluation.

18. Although Respondent already may have undergone evaluation and some treatment, she nonetheless expressly agrees that, if requested by the Board or its agents in the future, she shall promptly undergo such additional independent evaluation, assessment, or testing as may be requested with regard to alcohol or substance use. Should Respondent be requested to undergo additional evaluation, assessment, or testing she agrees she shall **bear all costs** and personally shall make all such payment arrangements as may be required, subject to the Board's review and approval, in advance.

E. Testing and Collection.

19. Respondent agrees that she shall promptly provide urine, blood, or other samples for collection and testing as required by NHPHP (or similar entity) or by the Vermont Board of Medical Practice. The Vermont Board, in its sole discretion, may require that the frequency or nature of sample collection by any entity or program be changed or increased. The Vermont Board also may require use of a different collector or analytical laboratory. Each sample collection shall be random and shall be directly observed. Respondent shall bear all costs. However, Respondent shall be permitted to share the cost of such collection and testing with her employer(s), should such arrangement be agreeable to the employer.

20. Respondent may request modification of the frequency of collection at a later date, subject to Vermont Board approval, to be determined in the Board's sole discretion, upon written petition by Respondent. Respondent agrees that she shall not present any petition to the Board in this regard until the passage of at least 24 months after the effective date of this Stipulation and Consent Order.

21. In no case shall the Board approve any change as to collection procedures that would have the possible effect of limiting the effectiveness of collection, testing, and substance monitoring. Should the Board in its sole discretion approve any change in this regard, it may at a later date withdraw any such approval and impose any and all collection and testing arrangements as it may deem appropriate, in its sole discretion.

22. Respondent agrees that she shall provide a complete copy of this Stipulation and Consent Order to any employer and/or supervisor for whom she works or to any

prospective employer, any State medical board, or other licensing authority in any location or jurisdiction where she may seek to practice or where she may make application, so long as this agreement remains in effect.

F. Other Matters.

23. Respondent acknowledges and agrees that engaging in unprofessional conduct, as set forth in 26 VSA §§1354 or 1398, shall constitute prima facie evidence of a violation by her of this agreement and be sufficient to support findings by the Board that the circumstances of her recovery, rehabilitation, and/or care and treatment have substantially changed, that the present conditions are inadequate to protect the health, safety and welfare of the public, and that immediate suspension of Respondent's Vermont medical license is required. And see Paragraph 16, above.

24. The parties reiterate here that nothing contained herein shall limit Respondent's right to present a motion at a later date for modification of any order of suspension of her license by the Vermont Board. The Board, in its sole discretion, agrees that it will review, consider, and determine such motion. Respondent agrees that the Board may limit its consideration to the written motion and acknowledges that she is aware that the State may oppose any such motion. Respondent agrees that the Board shall retain sole discretion to approve or disapprove any such motion from her.

25. Respondent agrees that no promises have been made regarding final disposition of this matter. The parties further agree that nothing contained herein shall limit the Board's authority to proceed in this matter, if deemed appropriate at a later date, pursuant to 26 V.S.A. §§ 1354, 1360, 1361, 1365, 1366 & 1398; 3 V.S.A. § 814(c); and other relevant

authorities. Respondent acknowledges that final disposition of this matter by the Vermont Board may result in the imposition of new or additional terms and conditions upon her Vermont license.

26. The parties agree that this Stipulation and Consent Order shall be a public document, shall be made part of Respondent's licensing file, and may be reported to other licensing authorities. The parties agree that an order **suspending** Respondent's Vermont license to practice medicine may be entered, as described herein, pending further proceedings or order of the Board. Nothing herein is intended to limit Respondent's right at a later date to demand and receive a formal specification of charges, file motions and pleadings, pursue discovery, to contest all charges against her, to present evidence or witnesses on her behalf, and to require proof as to any allegations against her in a hearing before the Board.

27. This Stipulation and Consent Order is conditioned upon its acceptance by the Vermont Board of Medical Practice. If the Board rejects any part of this document, the entire agreement shall be considered void. Respondent agrees to be bound by the terms and conditions of this Stipulation and Consent Order pending further proceedings or order of the Board. Respondent agrees that the Board of Medical Practice shall retain jurisdiction to enforce the terms and conditions of this Stipulation and Consent Order until it is modified or she is relieved of its terms and conditions. Respondent agrees that failure by her to abide by any of the terms and conditions of this Stipulation and Consent Order may constitute unprofessional conduct under 26 V.S.A. § 1354(25) and may subject her to such disciplinary action as the Board may deem appropriate, following evidentiary proceedings.

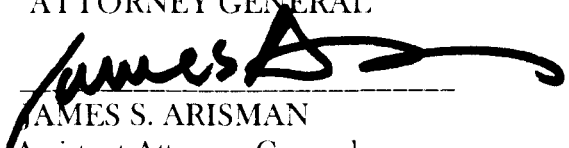
28. The parties therefore jointly agree that should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Board of Medical Practice, the Board: (a) may enter the findings set forth in Paragraphs 3 through 9, above, and enter an interim order **suspending** Respondent's Vermont license to practice medicine; and (b) such order shall continue until further proceedings or order of the Board.

Dated at Montpelier, Vermont this 25th day of May 2005.

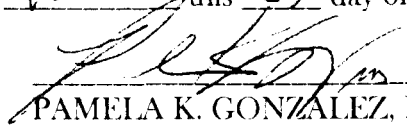
STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

by:


JAMES S. ARISMAN
Assistant Attorney General

Dated at Montpelier, Vermont this 25th day of May 2005.


PAMELA K. GONZALEZ, M.D.
Respondent, *pro se*

FOREGOING AS TO PAMELA K. GONZALEZ, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

<u>Flavene Young</u>	<u>Patricia A. Kay MD</u>
<u>Russell Duvignou, MD</u>	
<u>Harold L. Kucal</u>	
<u>John H. Langshaw, MD</u>	
<u>William H. Stuck, MD</u>	
<u>David W. Clann, MD</u>	
<u>John R. Sadler, MD</u>	

DATE: 6/1/05

ENTERED AND EFFECTIVE: June 1, 2005

ISA/STIP CONSENT FOR P. GONZALEZ, M.D.; NOT EFFECTIVE UNTIL REVIEWED AND APPROVED BY VERMONT BOARD OF MEDICAL PRACTICE

**State of New Hampshire
Board of Medicine
Concord, New Hampshire 03301**

STATE OF VERMONT EXHIBIT 1

In the Matter of:
Pamela Gonzalez, M.D.
No.: RT 1009
(Misconduct Allegations)

CONSENT ORDER

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of medicine, the New Hampshire Board of Medicine ("Board") and Pamela Gonzalez, M.D. ("Dr. Gonzalez" or "Respondent"), a Medical Resident in Training physician licensed by the Board, do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board according to the following terms and conditions:

1. Pursuant to RSA 329:17, I, 329:18 and 329:18-a, and Medical Administrative Rule ("Med") 206 and 210, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by physicians. Pursuant to RSA 329:18-a, III, the Board may, at any time, dispose of such allegations by settlement and without commencing a disciplinary hearing.
2. On June 26, 2001, the Board first granted Dr. Gonzalez resident training license number RT 1009 authorizing her to practice as a resident at Dartmouth Hitchcock Medical Center in Lebanon, New Hampshire, or off-site, under faculty supervision, as determined to be part of her training program. Dr. Gonzalez took a medical leave of absence from her residency on March 7, 2002. She entered the New Hampshire Physician Health Program ("NHPHP") on October 21, 2002. Dr. Gonzalez submitted

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a second application for resident training license on or about December 17, 2003 which was granted on or about December 18, 2003. She returned to the practice of medicine on January 2, 2004. Dr. Gonzalez's resident training license was issued by the Board for the period of January 1, 2004 through June 25, 2011.

3. The Board has received information that Dr. Gonzalez violated the terms of her NHPHP contract by having consumed alcohol, and by missing scheduled alcohol screenings.
4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent's compliance with the terms of her NHPHP contract and her agreement to remain alcohol free.
5. Dr. Gonzalez stipulates that if a disciplinary hearing were to take place, Hearing Counsel would prove that Dr. Gonzalez engaged in professional misconduct, in violation of RSA 329:17, VI (d), by the following facts:
 - A. In August 2004, ~~a random~~ drug and alcohol screening was reported positive for Ethylglucuronide with a level of 935 ng./ml. Dr. Gonzalez admitted to this conduct and agreed to engage in remedial measures to ensure future compliance with the NHPHP contract.
 - B. After August of 2004 and before February 5, 2005, Dr. Gonzalez failed to contact the Firstlab automated monitoring system to learn the dates of some of her scheduled screenings. Dr. Gonzalez also missed two (2) alcohol screenings.
 - C. These actions violated the terms of Dr. Gonzalez's NHPHP contract.

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6. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 329:17, VI, (d).
7. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against Respondent's license to practice as a physician in the State of New Hampshire.
8. Respondent consents to the Board imposing the following discipline, pursuant to RSA 329:17, VII:
 - A. Respondent's resident training license is SUSPENDED commencing January 28, 2005 and until further order of the Board. It is anticipated that Dr. Gonzalez will petition the Board to lift this suspension to allow her to participate in the Dartmouth Hitchcock Medical Center residency rotation which is scheduled to begin on June 26, 2005.
 - B. Respondent's participation in the NPHP shall be extended for an additional five (5) years from the end date of the contract entered into in October of 2002. The terms of Dr. Gonzalez's NPHP contract are incorporated into this *Consent Order* by reference. Respondent shall follow all recommendations of the Director of the NPHP regarding substance abuse prevention and treatment.
 - C. Respondent is required to submit to the care, treatment and observation of a treating psychiatrist and any other counselor(s) or health care provider(s) as

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deemed medically appropriate. Respondent shall follow all recommendations made by her treating psychiatrist, counselor or health care provider.

1. Within three (3) days of the issuance of this *Consent Order* by the Board, Dr. Gonzalez shall provide the Director of the NHPHP with the name and address of each treating physician, counselor or health care provider with whom she treats or seeks services.
 2. Respondent agrees to report to the Director of the NHPHP any change in any such treating professionals within three (3) days of the change or anticipated change in treating professional.
 3. Respondent shall sign all releases necessary to enable the Director of the NHPHP or the Board to discuss her progress with her treating professionals.
- D. Respondent shall meaningfully participate in a fitness for duty evaluation conducted by Albert J. Drukteinis, MD and which is currently scheduled to take place on May 19, 2005; Respondent agrees to provide the Director of the NHPHP and the Board with a copy of the evaluation within seven (7) days of its completion.
- E. Respondent shall bear all costs of the treatment, evaluation, and reporting required by this *Consent Order*, but she shall be permitted to share such costs with third parties.
- F. The Board may consider Respondent's compliance with the terms and conditions set forth herein, the recommendations of the treating mental health

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professional and the conclusions and recommendations of the "fitness for duty" evaluation in any subsequent proceeding before the Board regarding Respondent's license.

- G. Within ten (10) days of the effective date of this agreement, as defined further below, Respondent shall furnish a copy of the *Consent Order* to any current employer for whom Respondent performs services as a physician or work which requires a medical degree and/or medical license or directly or indirectly involves patient care, and to any agency or authority which licenses, certifies or credentials physicians, with which Respondent is presently affiliated.
 - H. For a continuing period of one (1) year from the effective date of this agreement, Respondent shall furnish a copy of this *Consent Order* to any employer to which Respondent may apply for work as a physician or for work in any capacity which requires a medical degree and/or medical license or directly or indirectly involves patient care, and to any agency or authority that licenses, certifies or credentials physicians, to which Respondent may apply for any such professional privileges or recognition.
- 9. Respondent's breach of any terms or conditions of this *Consent Order* shall constitute unprofessional conduct pursuant to RSA 329:17, VI (d), and a separate and sufficient basis for further disciplinary action by the Board.
 - 10. Except as provided herein, this *Consent Order* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above.

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However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.

11. This *Consent Order* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
12. Respondent voluntarily enters into and signs this *Consent Order* and states that no promises or representations have been made to her other than those terms and conditions expressly stated herein.
13. The Board agrees that in return for Respondent executing this *Consent Order*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
14. Respondent understands that her action in entering into this *Consent Order* is a final act and not subject to reconsideration or judicial review or appeal.
15. Respondent has had the opportunity to seek and obtain the advice of an attorney of her choosing in connection with her decision to enter into this agreement.
16. Respondent understands that the Board must review and accept the terms of this *Consent Order*. If the Board rejects any portion, the entire *Consent Order* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Consent Order* have prejudiced her right to a

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fair and impartial hearing in the future if this *Consent Order* is not accepted by the Board.

17. Respondent is not under the influence of any drugs or alcohol at the time she signs this *Consent Order*.
18. Respondent certifies that she has read this document titled *Consent Order*. Respondent understands that she has the right to a formal adjudicatory hearing concerning this matter and that at said hearing she would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on her own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this *Consent Order*, she waives these rights as they pertain to the misconduct described herein.
19. This *Consent Order* shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

FOR RESPONDENT

Date: _____

4 May 2005



Pamela Gonzalez, M.D.
Respondent

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FOR THE BOARD

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: May 4, 2005

Penny Taylor
 (Signature)

PENNY TAYLOR
 (Print or Type Name)
 Authorized Representative of the
 New Hampshire Board of Medicine